• AO 133

(Rev. 9/89) Bill of Costs

DISTRICT COURT OF GUAM

UNITED STATES DISTRICT COURT

OCT 07 2004

MARY L. M. MORAN CLERK OF COORT

District of Guam

TONY H. ASHTIANI

BILL OF COSTS

V	
CONTINENTAL MICRONESIA, INC.	dba
CONTINENTAL MICRONESIA and	
CONTEST A TOT THE CONTEST THE	

Case Number: CIV02-00032

Judgment having been entered in the above entitled action on Aug. 30, 2004 against Tony H. Ashtiani
the Clerk is requested to tax the following as costs:
Fees of the Clerk\$
Fees for service of summons and subpoena
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the
Fees and disbursements for printing
Fees for witnesses (itemize on reverse side)
Fees for exemplification and copies of papers necessarily obtained for use in the case
Docket fees under 28 U.S.C. 1923
Costs as shown on Mandate of Court of Appeals
Compensation of court-appointed experts
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828
Other costs (please itemize) .(Electronic Research and Postage Charges) 298.20
TOTAL \$695.38
SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.
DECLARATION
I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postagorepaid to: Tony H. Ashtiani Signature of Attorney: David Ledger
For: Continental Micronesia, Inc. Date: Sept. 10, 2004 Name of Claiming Party
Costs are taxed in the amount of \$277.60 and included in the judgment RODITA PLANTILO RODITATION (1)
MARY L.M. MORAN By: ROSITA P. SAN NICOLAS Option Deputy Clerk Deputy Clerk
Clerk of Court Peputy Clerk RECEIVED
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Case 1:02-cv-00032

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WITNESS FEES (computation, cf. 28 U.S.C. 1821 for statutory fees)							
	ATTEN	IDANCE	SUBSIS	STENCE	MIL	EAGE	Total Cost
NAME AND RESIDENCE	Days	Total Cost	Days	Total Cost	Miles	Total Cost	Each Witness
					•		
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					т	OTAL	

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

"Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

Rule 6(e)

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period."

Rule 58 (In Part)

"Entry of the judgment shall not be delayed for the taxing of costs."

CARLSMITH BALL LLP

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Tel No. 671.472.6813

Attorneys for Defendants Continental Micronesia, Inc. dba Continental Micronesia and Continental Airlines, Inc.

IN THE DISTRICT COURT OF GUAM

TONY H. ASHTIANI,

Plaintiff,

VS.

CONTINENTAL MICRONESIA, INC. dba CONTINENTAL MICRONESIA and CONTINENTAL AIRLINES, INC.,

Defendants.

CIVIL CASE NO. CV02-00032

DECLARATION OF DAVID LEDGER IN SUPPORT OF BILL OF COSTS

I, David Ledger, declare:

- I am an attorney at law licensed to practice before the Courts of the
 Territory of Guam and before this Court. I am a partner with the law firm of Carlsmith Ball
 LLP, attorneys of record for Defendant Continental Micronesia, Inc.
- 2. If called as a witness, I would and could competently testify thereto to all facts within my personal knowledge except where stated upon information and belief.
- On August 30, 2004, the Court granted Defendant's Motion for Summary Judgment, denied Plaintiff's Motion for Partial Summary Judgment, and awarded Defendant its costs.

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- 4. This Declaration itemizes each category of cost requested to be taxed by the Clerk of Court.
- 5. Electronic Research. Defendant incurred \$188.91 in electronic research, as detailed below. Costs for electronic research are taxable pursuant to Federal Rule of Civil Procedure 54(d). See also Independence Tube Corp. v. Copperweld Corp., 543 F. Supp. 706, 723 (N.D. Ill. 1982).

Date	Description	Amount
7/16/2003	Westlaw	\$42.03
7/21/2003	Westlaw	\$121.05
9/19/2003	Westlaw	\$19.39
	Payment to	
	Third Party	
2/27/2004	(PACER)	\$6.44
Total		\$188.91

6. **Postage Charges.** Defendant incurred \$109.37 in postage charges, as detailed below. Postage charges in this case were necessarily incurred because Plaintiff was prose and did not have a place of business whereby Defendant could regularly serve him with documents. Costs for postage charges are taxable pursuant to Federal Rule of Civil Procedure 54(d). See also Bresgal v. Brock, 637 F. Supp. 278 (D. Or. 1985).

Date	Description	Amount
3/28/2003	Postage	\$0.60
3/28/2003	Postage	\$4.65
5/16/2003	Postage	\$4.65
6/13/2003	Postage	\$3.13
6/13/2003	Postage	\$3.13
6/3/2003	Postage	\$0.37
7/28/2003	Postage	\$0.37
8/1/2003	Postage	\$4.42
7/31/2003	Postage	\$5.57
10/14/2003	Postage	\$4.42
10/3/2003	Postage	\$5.80
10/17/2003	Postage	\$4.88
10/14/2003	Postage	\$4.42
10/31/2003	Postage	\$4.42
11/21/2003	Postage	\$3.65
12/9/2003	Postage	\$4.88

12/15/2003	Postage	\$0.37
1/21/2004	Postage	\$0.37
1/21/2004	Postage	\$5.11
1/29/2004	Postage	\$0.37
2/5/2004	Postage	\$4.65
2/6/2004	Postage	\$4.42
2/12/2004	Postage	\$5.57
2/17/2004	Postage	\$5.34
2/17/2004	Postage	\$4.42
2/18/2004	Postage	\$4.42
2/19/2004	Postage	\$0.37
2/25/2004	Postage	\$0.37
3/4/2004	Postage	\$4.65
3/5/2004	Postage	\$4.42
3/5/2004	Postage	\$0.37
3/9/2004	Postage	\$0.37
3/18/2004	Postage	\$4.42
Total	_	\$109.37

7. Service Fees. Defendant incurred \$90.00 in service fees, as detailed

below. Costs for service fees are taxable pursuant to Local Rule 54.1(b)(2).

Date	Description	Amount
	Process Service Fee for Deposition of Juan	
10/13/2003	Rapadas-Mike Gallo	\$45.00
	Process Service Fee for Deposition of Alex	
10/13/2003	Chinet-Mike Gallo	<u>\$45.00</u>
Total		\$90.00

8. **Printing Fees.** Defendant incurred \$98.60 in printing fees, as detailed

below. Printing fees are taxable pursuant to 28 U.S.C. § 1920(3).

Date	Description	Amount
4/30/2003	Disagreement of Scheduling Order	\$13.90
5/16/2003	Response to Plaintiff's "Pleading to Defendant	\$1.40
	Counsel of Proper Service to Unrepresented	
	Party"	
6/3/2003	Answer to Second Amended Complaint	\$6.10
12/24/2003	Motion to Strike	\$5.20
1/16/2004	Motion to Strike	\$3.00
1/27/2004	Response to Request for Issuance of Order	\$3.40
2/5/2004	Reply in Support of Motion to Strike	\$4.40
2/11/2004	Motion for Sanctions	\$37.00
3/4/2004	Reply in Support of Motion for Sanctions	\$19.80
7/29/2004	Opposition to Plaintiff's Motion for Sanctions	\$4.40
Total		\$98.60

9. Copies for Documents Necessarily Obtained for Use in Case.

Defendant incurred \$188.50 for copies for documents necessarily obtained for use in this case.

Such costs are taxable pursuant to 28 U.S.C. § 1920(4) and Local Rule 54.1(10). See also United Intern. Holdings, Inc. v. Wharf (Holding) Ltd., 174 F.R.D. 479, 484 (D. Colo. 1997) (costs for exhibits attached to motion for summary judgment are taxable if party seeking costs prevails).

Date	Description	Amount
9/26/2003	EEOC file, Honolulu, Hawaii	\$20.10
10/6/2003	Plaintiff's Civil Case File at Superior Court of	\$29.50
	Guam	
10/9/2003	Plaintiff's Civil Case File at Superior Court of	\$38.50
	Guam	
11/21/2003	Motion for Summary Judgment and attached	\$53.50
	exhibits	
11/26/2003	Opposition to Motion for Summary Judgment and	\$34.10
	attached exhibits	
12/5/2003	Reply Memorandum in Support of Motion for	\$12.80
	Summary Judgment and attached exhibits	
Total	•	\$188.50

- 10. **Docket Fees Under 28 U.S.C. § 1923.** Pursuant to U.S.C. §§ 1920 and 1923, Defendant is entitled to attorneys fees as costs in the amount of \$20. See Berryman v. Epp, 884 F. Supp. 242, 244-45 (E.D. Mich. 1995) (summary judgment is a "final hearing" under 28 U.S.C. § 1923(a)).
- 11. I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed.

DATED: Hagåtña, Guam, September 10, 2004.

CARLSMITH BALL LLP

DAVID LEDGER
ELYZE MCDONALD
Attorneys for Defendant

Continental Micronesia, Inc.